LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6099
BILL NUMBER: SB 114

NOTE PREPARED: Jan 29, 2008
BILL AMENDED: Jan 24, 2008

SUBJECT: Annexation.

FIRST AUTHOR: Sen. Drozda
FIRST SPONSOR: Rep. Orentlicher

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Municipal Annexations- The bill allows a municipality to initiate an annexation only if: (1) the territory is noncontiguous and occupied by a municipally owned or operated airport or landing field, sanitary landfill, golf course, or hospital or is to be used for an industrial park and is owned by the municipality or by a property owner who consents to the annexation; (2) the land is contiguous agricultural land and owned by a property owner who consents to the annexation; or (3) all property owners in the territory provide written consent to the annexation.

Annexation of Lakes and Ponds- The bill prohibits a municipality from annexing a lake or pond of at least 20 acres unless the entire boundary of the municipality surrounds the lake or pond.

Department of Local Government Finance- The bill requires an annexation fiscal plan to be approved by the Department of Local Government Finance (DLGF), after a hearing, before the municipality adopts an annexation ordinance. The bill allows the DLGF to consider the written fiscal plan and information presented at the hearing. The bill prohibits a municipality from amending a fiscal plan after the plan is approved by the DLGF.

Town Annexations- The bill allows a town to annex territory within three miles of a city without first obtaining the consent of the city.

Remonstrance Waiver- The bill provides that a waiver or release of the right of remonstrance against annexation: (1) is not a covenant that runs with the land or is binding on the successors in title to the real property; and (2) expires three years after the date the waiver or release is executed.

Excessive Levy Appeals- The bill with respect to an excessive levy appeal based on increased costs to a civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the unit to additional geographic areas or persons: (1) eliminates the restriction against an appeal after 2009; (2) allows an appeal in the first year increased costs are incurred and the immediately succeeding four years; and (3) makes the excessive levy for a year a permanent part of the unit's maximum permissible levy for succeeding years.

State Board of Accounts and Annexations- The bill provides that an annexation ordinance that was adopted after December 31, 2006, and has not taken effect, is void if the most recent examination report of the municipality by the State Board of Accounts (SBA) finds that the municipality failed to observe a uniform compliance guideline or a specific law.

Incorporation without Consent- The bill provides that territory may incorporate as a town without obtaining the consent of a city within a certain distance of its proposed boundaries, if the proposed town has an assessed value of at least $750,000,000 as shown by the most recent assessment.

Moratorium on Certain Annexations- The bill prohibits a municipality from adopting an annexation ordinance, other than an ordinance petitioned for by landowners, after January 1, 2008, and before July 1, 2008.

Repealer- The bill repeals a provision that requires a town to obtain the consent of a city before annexing territory within three miles of the city.

Effective Date: January 1, 2008 (retroactive); July 1, 2008.

Explanation of State Expenditures: *Department of Local Government Finance*- DLGF reports they already possess the necessary expertise to review fiscal plans. However, the DLGF would likely have to develop guidelines for standards to review fiscal plans of proposed annexations. The DLGF would have to send notice of review hearings via first class mail. Notices would have to be sent to each homeowner affected by the annexation proceeding. The impact to state expenditures for notice mailings is unknown. The bill does not provide an appropriation to cover any additional expenses the DLGF may incur to carry out the reviews. Therefore, the DLGF would have to conduct reviews within their existing level of resources.

Background- The DLGF reverted $407,769 to the state General Fund at the close of FY 2007. The DLGF had postage expenditures of $35,430 during FY 2007.

Explanation of State Revenues:

Explanation of Local Expenditures: *Municipal Annexations*- This provision would change the conditions under which a municipality could annex certain land areas. The provision could eliminate remonstrances filed against annexation, thereby reducing expenses for legal challenges and the amount of administrative time spent to process remonstrance paperwork and confirm signatures.

Annexation of Lakes and Ponds- As under *Municipal Annexations*, this provision could reduce annexations from occurring around certain lakes and ponds.

Fifty-One Percent Requirement to Remonstrate- The provision could make it easier for land owners from an area proposed to be annexed by ordinance to remonstrate. A municipality could have additional legal expenses to annex territory if more annexation ordinances are challenged by remonstrance. Under current law with certain exceptions, 65% of land owners in a territory to be annexed must sign a petition of remonstrance.

State Board of Accounts and Annexations- If a municipality is found by a State Board of Accounts audit report to have not complied with uniform guidelines or any other law with respect to accounting of public funds, the bill would void any adopted annexation ordinance that had not yet taken effect.

Moratorium on Certain Annexations- This provision would temporarily reduce municipal expenditures for legal proceedings between remonstrators and the annexing municipality.

Explanation of Local Revenues: (Revised) *Excessive Levy Appeals*- Under current law, a taxing unit may petition the State's Local Government Tax Control Board or, beginning in 2009, the county board of tax and capital projects review, for an excessive levy to cover the increased costs due to an annexation. This appeal is not available after 2009 under current law.

This bill would restore the appeal for years after 2009. A taxing unit could appeal only if the costs of annexation will be incurred in the current year and in more than one immediately succeeding year. The excessive levy could apply to the year in which the annexation costs were incurred plus up to four of the immediately following years. If the appeals are granted, this provision would result in a levy increase for up to a total of five years for annexing units. The fiscal impact would depend on local action (and state action through 2009).

Town Annexations- This provision could allow towns to annex territory more easily than under current law. Landowners in towns that annex territory under the above conditions could see an overall reduction in their property taxes as persons in the newly annexed territory would begin to pay property taxes. In return, the town, if not already extended, would extend services to the annexed landowners with the tax revenue.

Incorporation without Consent- This provision would make it easier for certain qualifying areas to incorporate if their AV is at least $750 M. As a result, a newly incorporated area would be able to levy property taxes and receive revenue from the land owners within the area. However, the newly created town may have to extend services to some or all of the area's citizens which would increase the town's expenditures.

Under current law, an area wishing to incorporate into a town must receive permission from the legislative body of a municipality if the area wishing to incorporate is within four miles of the boundaries of Indianapolis or within three miles of a second or third class city.

Local Option Income Tax Distributive Shares Implication- An area incorporating into a town, under the bill, would become eligible for a distributive share of local option income taxes, including CAGIT, COIT, and CEDIT. Shares are determined by the ratio of a unit's property tax levy to the remaining property tax levies in a county. Other civil taxing units eligible for LOIT shares, including the parent county, would on a percentage basis see their shares decline in order to accommodate the shares of a newly incorporated town.

State Agencies Affected: Department of Local Government Finance, State Board of Accounts.

Local Agencies Affected: Municipalities, counties, trial courts.

Information Sources: State Budget Agency; Annexation Study Committee Minutes, September 26, 2007; Auditor's data via State Budget Agency.

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